

### **Remarks/Arguments**

#### **A. Pending Claims**

Claims 66, 67, 69-83, 101, 134, 146, and 159-161 have been rejected. Claims 66, 76, 80, 134, 159, 160, and 161 have been amended. Claims 101 and 146 have been canceled. Claims 66, 67, 69-75, 76, 77-79, 80, 81-83, 134, and 159-161 are pending in the case.

#### **B. The Claims Are Not Obvious Over Torres In View of Forman And Further In View of Pendelton Pursuant To 35 U.S.C. § 103(a)**

The Examiner rejected claims 66, 67, 69-83, and 101 under 35 U.S.C. 103(a) as obvious over U.S. Patent No. Application No. 2005/0043961 to Torres et al. (herein after “Torres”) in view of U.S. Patent No. 6,826,536 to Forman and further in view of U.S. Patent No. 6,253,186 to Pendelton Jr. (herein after “Pendelton”). Applicant respectfully disagrees with these rejections.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner et al.*, 379 F.2d 1011, 154 U.S.P.Q. 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP § 2143.03. In addition, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Claim 66 describes a combination of features, including but not limited to: “determining a combined or weighted fraud potential indicator that is based on at least the first fraud potential indicator and the second fraud potential indicator.” The cited art does not appear to teach or

suggest at least these features of claim 66, in combination with the other features of the claim.

The Office Action acknowledges that Torres does not disclose “two potential fraud indicators.” Nonetheless, the Office Action takes the position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to use two fraud potential indicators, “since it has been held that *mere duplication* of the essential working parts of a device involves only routine skill in the art.” (emphasis added). The Office Action relies on *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11 (7<sup>th</sup> Cir. 1977). In *St. Regis Paper*, the court held that redundancy of layers to confer strength was obvious in the paper bag art. *St. Regis Paper*, 193 USPQ at 11. Claim 66 of the present application, however, does not involve mere redundancy. Claim 66 describes displaying a score or rank for at least two different potential fraud indicators assessed using different fraud detection techniques. Each potential fraud indicator is distinct from the other and provides different information to a user. The present application is similar to *Ex Parte Mattison*, 1995 WL 1696767 (Bd. Patent App. & Intf. 1995). In *Mattison*, the Board reversed an Examiner’s rejection for an obviousness rejection that relied on *St. Regis Paper*. The court stated: “In the present case, the comparators are not redundant since each has *distinct inputs*.” *Mattison* at \*6 (emphasis added). Similarly, the potential fraud indicators recited in claim 66 are not redundant because they are assessed using different fraud detection techniques.

The Office Action further states that “the claimed invention merely discloses that two potential detection techniques are used, however there is no limitation in the claimed invention that establishes that the duplication of the fraud potential detection techniques performs a unique and innovative function.” Applicant respectfully disagrees.

Applicant submits that, contrary to the assertions of the Office Action, the use of at least two fraud potential indicators, each of the fraud potential indicators being determined using a different fraud detection technique is unique and innovative. Specifically, Claim 66 further

includes the features of “referring the request for review if the combined or weighted fraud potential indicator exceeds a threshold value, wherein the threshold value is adjusted to control the number of requests with the combined or weighted fraud potential indicator exceeding the threshold value.” Thus, rather than relying on a single fraud potential indicator to determine the probability that a request may be fraudulent, Applicant’s claims are directed to basing the determination of potential fraud on multiple (i.e., at least two) fraud potential indicators that are derived using different techniques. This feature, in combination with the other feature of the independent claim, is neither taught nor suggested in the cited art. Furthermore, Applicant’s claims offers the innovative function of basing the fraud potential on a “combined or weighted fraud potential indicator” thus freeing a user from having to perform an assessment of each of the fraud potential indicators that have been determined. These innovative and unique features are not taught or suggested by the prior art.

Forman discloses nine “triggers” that comprise data processing triggers for flagging fraud suspect data within claims submitted by health care providers (Forman, column 4, lines 57-61). Neither Forman nor Torres, alone or in combination with one another, teach or suggest displaying two fraud potential indicators simultaneously in a graphical user interface, wherein the displayed fraud indicators for the request are each assessed using a different fraud detection technique.

Pendelton discloses determining the fraud potential of claims based on patterns and other features determined by comparing attributes of multiple claims that are submitted from the same provider or supplier. Inconsistencies and other features of the compared multiple claims may lead to an assessment of the fraud potential. Applicant’s claims, in contrast to Pendelton, are directed to an analysis of a single “request” using multiple fraud detection techniques. This feature does not appear to be taught or suggested in Pendelton.

For at least the reasons stated above, Applicant submits that claim 66 is allowable over the cited art. Applicant respectfully requests removal of the rejections of claim 66 and the claims dependent thereon.

Amended claim 76 recites:

determine a combined or weighted fraud potential indicator that is based on at least the first fraud potential indicator and the second fraud potential indicator; and refer the request for review if the combined or weighted fraud potential indicator exceeds a threshold value, wherein the threshold value is adjusted to control the number of requests with the combined or weighted fraud potential indicator exceeding the threshold value.

For reasons similar to those set forth above with respect to claim 66, Applicant submits that the cited art does teach or suggest at least this feature of claim 76, in combination with the other features of the claim.

Amended claim 80 recites:

determining a combined or weighted fraud potential indicator that is based on at least the first fraud potential indicator and the second fraud potential indicator; and referring the request for review if the combined or weighted fraud potential indicator exceeds a threshold value, wherein the threshold value is adjusted to control the number of requests with the combined or weighed fraud potential indicator exceeding the threshold value

For reasons similar to those set forth above with respect to claim 66, Applicant submits that the cited art does not teach or suggest at least this feature of claim 80, in combination with the other features of the claim.

Claim 134 recites, in part:

determining a combined or weighted fraud potential indicator that is based on at least the first fraud potential indicator and the second fraud potential indicator; and

referring the request for review if the combined or weighted fraud potential indicator exceeds a threshold value, wherein the threshold value is adjusted to control the number of requests with the combined or weighted fraud potential indicator exceeding the threshold value

For reasons similar to those set forth above with respect to claim 66, Applicant submits that the cited art does not teach or suggest at least this feature of claim 134, in combination with the other features of the claim.

**C. The Claims Are Not Obvious Over Torres Pursuant To 35 U.S.C. § 103(a)**

The Examiner rejected claims 134, 146, and 159-161 under 35 U.S.C. 103(a) as obvious over Torres. Applicant respectfully disagrees with these rejections.

Claim 134 recites: “assessing at least two fraud potential indicators for an insurance claim using at least two of an identity search engine, a predictive model engine, or a business rule engine.” The cited art does not appear to teach or suggest at least these features of claim 134, in combination with the other features of the claim. For reasons similar to those set forth above in Section B with respect to claim 66, Applicant submits that the cited art does teach or suggest at least this feature of claim 134, in combination with the other features of the claim.

The Office Action claims that Torres discloses assessing an insurance claim using “at least two of an identity search engine, a predictive model engine, or a business rule engine.” Applicant respectfully disagrees that Torres appears to teach or suggest at least the feature of using a predictive model engine of claim 134.

For at least the reasons stated above, Applicant submits that claim 134 is allowable over

the cited art. Applicant respectfully requests removal of the rejections of claim 134 and the claims dependent thereon.

Claim 159 recites: “wherein at least one engine used to assign at least one of the at least two fraud potential indicators is a predictive modeling engine, and wherein summary information for the predictive modeling engine includes criteria used to assign the fraud potential indicator to the claim.” The cited art does not appear to teach or suggest at least these features of claim 159, in combination with the other features of the claim.

Claim 160 recites: “wherein at least one engine used to assign at least one of the at least two fraud potential indicators is a predictive modeling engine, and wherein summary information for the predictive modeling engine includes criteria used to assign the fraud potential indicator to the claim.” The cited art does not appear to teach or suggest at least these features of claim 160, in combination with the other features of the claim.

Claim 146 recites: “assessing at least two fraud potential indicators for an insurance claim using at least two of an identity search engine, a predictive model engine, or a business rule engine.” The cited art does not appear to teach or suggest at least these features of claim 134, in combination with the other features of the claim. For reasons similar to those set forth above in Section B with respect to claim 66, Applicant submits that the cited art does teach or suggest at least this feature of claim 146, in combination with the other features of the claim.

**D. Additional Remarks**

Applicant submits that all claims are in condition for allowance. Favorable consideration is respectfully requested.

It is believed that no fees are required in connection with the filing of this document. If an extension of time is needed, Applicant requests the appropriate extension of time. If any fees are required, please charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5053-64100/EBM.

Respectfully submitted,

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